IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.9111 OF 2003

Shankar Yashwant Bejugade : Petitioner

V/s.

Bhapal Antul Shete & Ors. : Respondents

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Mr.K.S.Patil for the petitioner.

Mr.P.R. Kapadnis instructed by Mr.Vijay Mane for respondent no.1.

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CORAM : S.A. BOBDE, J.

April 28, 2005.

P.C.:

1. The petitioner challenges the order of the Additional Commissioner, Pune Division, Pune, remanding respondent no.1's application for mutation in respect of survey no.89/1-A to the Sub-Divisional Officer. According to the petitioner, mutation entry no.6010 was wrongly made in that the petitioner's name could not have been directed to be deleted on the basis of the judgement in Civil Suit no.57 of 1951.

2. I find from the order of the Additional Commissioner, Pune Division, i.e. the impugned order, that the Additional Commissioner has taken into account the observations of the Civil Court in R.C.S. No.292/2002 to

the effect that the present petitioner has no concern with the ownership and possession of gat no.89/1-A. The Additional Commissioner has observed that the mutation entry was made by relying on the wrong inputs, apparently referring to the judgment in Civil Suit no.57/51. Having regard to the circumstances, I am of view that the learned Additional Commissioner rightly declined to change the mutation entry himself, but remanded the matter to the Sub-Divisional Officer to make the entry, in accordance with the direction and observations in the judgement in R.C.S. No.292/2002.

3. The learned counsel for the petitioner contended that the judgement in R.C.S. No.292/2002 wold also not justify the deletion of the petitioner’s name in respect of the land bearing gat no.89/1-A. This contention is premature. If that is so, the petitioner would be entitled to point this out to the Sub-Divisional Officer when the said authority considers the matter on remand.

4. In the circumstances, there is no reason to interfere with the impugned order. The Sub-Divisional Officer shall, however, ensure that notices are issued to the concerned parties and hearing is given before a decision is taken. The Writ Petition is disposed of with the above observations.

Sd/-

S.A. BOBDE, J.